Voting of Demands for Grants.

1. 15—Accounts and Finance—Rs. 40,718-

Mr. P. V. Subramania Ayyar.—Sir, before I move for the allotment, I consider it my duty to thank you, all the Hon'ble Members, for what you have said of me with regard to the presentation of a frank budget. Of course, I shall, in my turn, try my best to justify the trust reposed in me, in whatever capacity I serve the Council.

Now I beg to move for a grant of Rs. 40,718 under item No. 15—Accounts and Finance.

Motion No. 1.

Mr. E. Ikkanda Warriar.—Sir, I move *to reduce the allotment of Rs. 40,718 for Accounts and Finance by Re. 1.* The object of my motion is as explained in the printed paper, to bring to the notice of the Government the desirability of amending the Account Code so as to make the Heads of Departments personally liable for amounts received by them under the head of Advances Repayable.

Sir, it is the latest decision of the Chief Court in the Excise Defalcation Case that prompted me to table this motion. The Government is budgetting large amounts to the tune of 4 to 6 lakhs every year under this head. Page 91 of the Preliminary Edition of the Budget shows that a sum of Rs. 4,52,100 has been provided for the coming year. These amounts are distributed among the various Departments. About 80 per cent of it are spent by the Heads of Departments for the purchase of articles which are sold or otherwise used by them. For example, more than 1½ lakhs of rupees is provided for the purchase of salt. The Excise Department purchases this salt and sells to the public.

The law as it now stands does not cast any absolute liability on the Head of a Department to see that the price of articles he sells is paid back to the Treasury. He is, in the absence of grounds of suspicion, justified in trusting his subordinates to do certain works for him. He will not be guilty of negligence in law until it is satisfactorily proved that he was aware or ought to have been reasonably aware of facts and circumstances which throws upon him the duty of investigating the accuracy of office accounts. So if there are clever subordinates who can manage to swindle away large sums without giving any room for suspicion or if the Head of Department is not clever enough to suspect or much less to find out the misdeeds of his subordinates, the Government will have to lose large amounts, as they did in this case.

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Now, Sir, the question whether this is good law or bad law is not the question before us. There is no law, it appears, which prescribes in express terms the nature of the duty of the departmental heads in these matters. There does not seem to be any written rule enjoining on them the duty of making a check. This is really a very unsatisfactory state of affairs. Nobody would say that the pay we give to the Heads of Departments is not sufficient enough to attract honest and efficient men. The State can ill-afford to lose any money whether big or small especially in these days of depression. It is only in the fitness of things that an enlightened State like ours especially under the guidance of an able I. C. S. officer like you should have a set of well defined definite departmental rules which will make it impossible to have defalcations like the one we had in the Excise Department. The best way to do it is to make the heads of departments personally liable for all amounts received by them under advances repayable. They must be made to feel that it is their duty to keep this money as safely as if it were their own personal property. Let it be clearly understood, Sir, that I am not attempting to hold them personally responsible for each and every act that they do in the capacity of heads of departments.

My motion relates to amounts received by them under one head, i. e., the advances repayable and my object is to make the head of a department responsible for not only his acts of commission but of omissions as well.

I, therefore, request the Government to accept this motion and the Members to give their unanimous support to it.

Mr. M. A. Chakko.—Sir. I rise to oppose this motion. The purpose of my opposition, it must be first stated, is nothing personal. It is only as a matter of principle. The Hon'ble Member who moved the cut is not, I have to state, versed in the account rules of the Government administration because he proposes to make a difference between money drawn from the Treasury on ordinary bills and on abstract bills, the one debited to an expenditure under "service head" and the other debited to a debt head, called 'Advances Repayable". The Special Finance Committee of which I think the Hon'ble Member was also one of the Members had.....

Mr. E. Ikkanda Warriar.—I was not.

Mr. M. A. Chakko.—The Special Finance Committee had recommended to the Government to make the transaction of the purchase and sale of salt a debt head transaction and not an ordinary State business under service head included in the ordinary receipt and ordinary expenditure of the Government.

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If the purchase of salt is made an ordinary expenditure and if the amount realized by the sale of salt is made an ordinary receipt the Government revenue and expenditure will swell fictitiously, and it will be difficult to see how the State finance truly stands. It is a State business. The amounts expended and the amounts received from time to time in a year form the turn over of the business and not the capital of the business. The revenue of the State is derived from the duty on salt and from nothing else. Therefore, the Special Finance Committee recommended to the Government that instead of, as it was doing before, making the purchase of salt an item of State expenditure and the receipt of the value of the same a State revenue on receipt side a service head, to make that transaction a debt head transaction. Now, it is a simple account necessity that transferred one transaction from the ordinary service head to a debt head. It is an account exigency. There is no reason to make it an additional burden on the Head of the Department. That is a thing which was not contemplated at the time the recommendation was made by the Special Finance Committee, and the Government accepted the recommendation of the Special Finance Committee and made it a debt head transaction. Now, after an year or so up comes a member to say that the Head of the Department must be made personally liable for everything that is done under the Head 'Advances Repayable'. I should think that this House will not subscribe to that proposition.

Again, in the matter of purchase and sale of salt the Head of the Department, I say the Commissioner of Excise Revenue, will be in great difficulty to have everything done under his personal view. His office would always be at the capital, i. e., at Ernakulam or it may be taken to Trichur even. Then the salt depot cannot be anywhere except where the salt can be brought by sea from Bombay or any other place. So it will be far away from the place where the Head of the Department sits and does his work. The salt is kept and the sale of salt has to be effected from the depot. How is it effected? The sale is done to parties producing chalans of money remitted into the Treasury. If one Manager of the Depot or the custodian of the salt with the connivance of the clerks of the Excise Office and other persons who have got the duty to be vigilant about accounts walk away with a large amount of money the Head of Department must be in hot waters. He will be ruined if the Government were to make him personally responsible for something which he is not expected to do personally. I should think it would be inequity profound. The law of the State, the common law, recognises that vicarious responsibility should be laid when

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it is possible and when it is necessary to have such close supervision over matters about which there is great danger. Now, salt is not like that. Salt is of bulk. It is not so valuable as gold or silver. If it was gold or silver it would have been easy for the Head of the Department to keep it very safe by having it locked up in an iron safe and putting on duty a number of watchmen. But for salt which is stored in depots and for other similar articles it will not be possible for the Head of the Department to guarantee safety by undertaking personal liability.

Again, in the matter of stocking. I do not restrict myself to the Excise Department. For survey stones the Diwan Peishkar gets an advance. It is also drawn and debited to advance recoverable. And where are these survey stones kept? In the compounds of village offices throughout the State. If some of these stones are stolen or lost, and finally, after years the man who had taken the advance is no more, the Diwan Peishkar or his descendants, I do not mean the present man, will have to pay from their own pockets. These are all State matters. It cannot be said that because instead of debiting the expenditure under service head the transaction is done under the head advances recoverable which is a debt head the Diwan Peishkar should be responsible for the acts of Parvathiakarans, Thasildars, Revenue Inspectors, Village Parvathiams, Menons, Masapadies. It is some one of these who is in custody of the stock, and suppose it is not possible to recover the amount from such persons. Very many things have to be taken into consideration before this proposition is accepted by this House. Because I have some intimate knowledge of these matters I have brought this matter to the notice of the House and I have nothing more to say. The House may consider the matter and if it thinks that the departmental heads who receive fat salaries must be made to pay back a portion of it for the benefit of the Government coffers it may do so.

മിസ്റ്റർ ടി. കെ. നായർ.—ഇപ്പോൾ അവതരിപ്പിക്കപ്പെട്ടിട്ടുള്ള ഉപക്ഷേപത്തെ ആ നിലയിൽ തന്നെ അനുകൂലിക്കാൻ ഞാൻ തരം കാണുന്നില്ല. ഇതിനെ എതിർത്ത മെമ്പർ പറയുന്ന ന്യായങ്ങൾ മുഴുവൻ ശരിയാണെന്നു് എനിയ്ക്കു തോന്നുന്നുമില്ല. സർക്കാർ ഖജനാവിൽ നിന്നും വകുപ്പധ്യക്ഷന്മാർ പണം വാങ്ങുന്നതു് ഏതു് ഉദ്ദേശത്തോടുകൂടിയാണോ ആ ഉദ്ദേശത്തിലെ അതു പയ്യവസാനിക്കാവൂ എന്നതിനു വാദമില്ല. മടക്കി അടക്കാനുള്ള നിശ്ചയത്തിന്മേൽ സർക്കാരവശ്യത്തിനു വേണ്ടി വകുപ്പധ്യക്ഷന്മാർ വാങ്ങുന്ന പണം മടക്കി അടച്ചുതന്നെ തീരണം. ഇന്നത്തെ നില ഇതിനനുസരിച്ചാണോ എന്നു് സംശയമാണു്. ഇതിന്റെ ഫലമോ, ഉദ്യോഗസ്ഥന്മാർക്കു് ഉദ്യോഗവും സർക്കാർ ഖജനാവിലേക്കു്

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പണവും നഷ്ടമാകുകയല്ലാതെ മറെറാന്നല്ല. ഈ രണ്ടു നഷ്ടങ്ങളും കൂടി ഒന്നിച്ചു വരാതെ ഉദ്യോഗസ്ഥന്മാരേയും ഖജനാവിനേയും രക്ഷിക്കയാണ് ഈ ഉപക്ഷേപത്തിന്റെ ഉദ്ദേശമെന്നാണ് ഞാൻ ധരിച്ചിട്ടുള്ളത്. അല്ലാതെ ഗവമ്മെണ്ടുദ്യോഗസ്ഥന്മാരെ നിയമം മൂലം ശിക്ഷിക്കണമെന്നൊന്നും ഇതിന്റെ അവതാരകനു് ഉദ്ദേശമുള്ളതായി ഇതിലെങ്ങും നോക്കീട്ടു കാണുന്നില്ല. സർക്കാർ പണം ഒരു പൈ പോലും കളയരുതു്. അതുടെ വീഴ്ച കൊണ്ടാണോ ധനനഷ്ടമുണ്ടാകുന്നതു് അയാൾ ശിക്ഷാർഹൻ തന്നെയാണ്. എന്നാൽ അതുമാത്രം ഉത്തരവാദികളല്ലെന്നു വന്നാൽ ചിലക്കൊക്കെ ഉദ്യോഗവും നമുക്കു പണവും നഷ്ടമാകും. ഇതു രണ്ടും കൂടാതെ കഴിക്കാനും ഉദ്യോഗസ്ഥന്മാരെ ഉത്തരവാദിത്വബോധമുള്ളവരാക്കി തീർത്തു് അവരുടെ ഉദ്യോഗങ്ങളെ സുരക്ഷിതമാക്കാനുമുള്ള മാർഗ്ഗത്തെയാണ് ഈ ഉപക്ഷേപം നിർദ്ദേശിയ്ക്കുന്നതു്. ഇതിനു പറഞ്ഞ ആക്ഷേപകുപ്പുധ്യക്ഷൻ തന്നെയാണെതാനും. ഗവമ്മെണ്ടിനു് ഇതിനെപ്പറ്റി ആലോചിയ്ക്കേണ്ട സന്ദർഭം ഇപ്പോൾ വന്നിട്ടില്ലെങ്കിൽ ഞങ്ങളാരും പറയാതെ തന്നെ അറിയുവാനിടവരും. "അഡ്വാൻസു് റിപ്പെയബിൾ" എന്നെല്ലാം അർത്ഥമില്ലാതെ കടലാസിലെഴുതി വച്ചതുകൊണ്ടായില്ല. അതു മടക്കി അടക്കയും മടങ്ങി കിട്ടുകയും തന്നെ വേണം. അതിനെന്താണു വഴിയെന്നു കണ്ടുപിടിയ്ക്കണം. വകുപ്പധ്യക്ഷനെ ദ്രോഹിയ്ക്കണമെന്നുള്ള ഉദ്ദേശം ഈ ഉപക്ഷേപത്തിലുണ്ടെന്നു തോന്നുന്നില്ല.

കൊച്ചിരാജ്യത്തിലുള്ള സർവ്വേ കല്ലുകൾ മുഴുവൻ കാണാതായിരിയ്ക്കുന്നുവെന്നു വന്നാൽ അതിനുത്തരവാദി ദിവാൻപേഷ്കാർ തന്നെയാണ്. തന്റെ കീഴിലുള്ള ഉദ്യോഗസ്ഥന്മാരെ കൊണ്ടു ജോലികൾ നടത്തിയ്ക്കുവാൻ അദ്ദേഹത്തിനു് ചുമതലയുണ്ടെങ്കിൽ ഏതു ഉദ്യോഗസ്ഥന്റെ കയ്യിൽ നിന്നാണു് ആ തെറ്റു വന്നതെന്നു അദ്ദേഹം കണ്ടുപിടിച്ചു് ആ ഉദ്യോഗസ്ഥന്റെ കയ്യിൽനിന്നും—ശമ്പളത്തിൽനിന്നും—പണം പിടിച്ചു് എടുക്കുകയാണു വേണ്ടതു്. അല്ലാതെ ആരാനും ചെയ്ത തെറ്റിനു് വകുപ്പധ്യക്ഷൻ പിഴ കെട്ടണമെന്നതിനർത്ഥമില്ല. ഒരു സർവ്വേ കല്ലു പോയാൽ അതിന്റെ നഷ്ടം ദിവാൻപേഷ്കാരുടെ ശമ്പളത്തിൽ നിന്നു് ഈടാക്കണം. ര ണ. രൂ പൈ. വിലയുണ്ടെങ്കിൽ അതു് ദിവാൻപേഷ്കാർ കൊടുത്തുതീർക്കണം; കുപ്പു കണ്ണാപ്പു് കൂറേച്ചു വിറകുള്ളുവെങ്കിൽ അതിനു എക്സ്ക്യൂസ് സൂപ്രണ്ടു് ഉത്തരം പറയണം എന്നൊന്നും ഇതിൽ നിന്നു വരുന്നില്ല. എന്നാൽ നാട്ടുകാരുടെ പണം വെറുതെ കളയാതെ ഒരു പൈ വാങ്ങീട്ടുണ്ടെങ്കിൽ അതിനും ശരിയായ കണക്കു വയ്ക്കുകയും ഖജനാവിലേയ്ക്കു തിരിച്ചടയ്ക്കാനുള്ള തുക ഒരു പൈ കുറയാതെ തിരിച്ചടയ്ക്കുകയും വേണമെന്നാണു പറയുന്നതു്. ഇങ്ങിനെ നാ

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ട്ടുകാരുടെ പണം കളയാതെയിരിയ്ക്കുവാനുള്ള മാർഗ്ഗം നവമ്പെണ്ടു കണ്ടുപിടിയ്ക്കണം. ഞാൻ ഇതിനെ എതിർക്കുന്നമില്ല; അനുകൂലിയ്ക്കുന്നമില്ല. എനിയ്ക്കു പറയാനുള്ള അഭിപ്രായം പറഞ്ഞുവെന്നേയുള്ളൂ.

Mr. Joseph Pettah.—On a point of information. Sir, may I ask the Hon'ble Member of this cut motion whether he wants by it, to make the Head of the Department personally responsible for all repayments, or, as was interpreted by my Hon'ble friend here, he only wants the Head of the Department to see that those under him do make the repayments properly.

Mr. E. Ikkanda Warriar.—The Government should not lose the money in any event. If the proper check is exercised it could be found then and there. What is the use of making a man liable for any amount after 10 or 12 years? He might have been dead, or he might have become insolvent. Then who will be responsible—the Head of Department?

Mr. K. Ayyappan.—If he is also dead and gone.

Mr. Joseph Pettah.—I oppose this motion. The only point advanced by the Hon'ble mover is that Government money must be sufficiently safeguarded. If the liability of the Head of the Department should consist in taking proper precautions for the safeguarding of Government money by way of due supervision and control over his subordinates, that object is secured even by the rules as they are. And at the same time the mover does not say that he insists on the Departmental Heads being made personally liable for the amounts that might be lost through the faults or frauds committed by his subordinates.

Mr. E. Ikkanda Warriar.—In order to induce the Head of a Department to see that no money is lost he must be made personally liable. Then only he will be vigilant and careful.

Mr. Joseph Pettah.—May I take it that if money is lost and if it is not got back the responsibility to repay that money back goes upon him?

Mr. E. Ikkanda Warriar.—I do not want to make such a distinction. I purely look at this question from the standpoint of the man in the street. As a lawyer I know something about the fact of this case. But I do not want to look at it from a lawyer's standpoint. Here are our Heads of Departments to whom we are giving 800 or 900 rupees a month and here are defalcations in this departments to the extent of lakhs of rupees. Who is responsible for all these? Can we afford to lose like this? There must be some remedy for this state of affairs. It is only for this that I have tabled this motion. I do not find any techinicality in this and so far as I know the case of the Government itself was that the head of the Excise Department was

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personally liable. I am not therefore advancing a new case here. This was exactly the case of the Government in the Chief Court. My impression is that it was for want of express provisions in the departmental rules for that, the Chief Court refused to give a decree as prayed for. My object is only to supply that omission.

Mr. Joseph Pettah.—Sir, if it is that sort of responsibility which is to be put on the Head of the Department, in the first place, I do not see why any distinction should be made between the two kinds of moneys, namely advances repayable, and money drawn on ordinary bills. If there is defalcation or fraud of any sort, with consequent loss of money, be it any kind of money, the Head of the Department should be made personally liable for repayment. So, in the first instance, it is not clear why a distinction should be made between money that is taken as advances repayable and money that is drawn on ordinary bills.

Then again, coming to the practical side of it we have to consider whether it is after all possible to put all that personal responsibility on the Departmental Head. It is simply impossible in point of practice. Whatever may be said in theory, in point of practice the Heads of the Departments will have to put some confidence in their subordinate officers. Subordinates, like the Manager of the Excise Office, have also to be responsible men. If we are going to throw all the responsibility on the shoulders of the Head of the Department himself, I think we would be unduly hard upon him and no business could ever be transacted. Just imagine for a moment a Head of the Department with a heap of files before him and asked to go into the minutest details of every one of them, to inspect all payments and to check the cash balance every day; for, unless he is made to do all that, we cannot hold him personally responsible for all repayments. Where is the time for all these? Indeed, no ordinary mortal can cope with such work. The subordinates in the Department, as the Office Manager, the head clerk and such other officers, will have to bear a portion of the responsibility. Now, then, suppose they commit fraud and there occurs a defalcation in consequence. Is it the Departmental head who is to be victimised?

The Hon'ble mover of the 'cut' spoke of safeguarding sirkar money. For this purpose there is in the first place the Penal Code. If anybody is found guilty of defalcation, the Penal Code will deal with him adequately. That is how private property is safeguarded, generally. If there is theft in the country the man who is responsible, is punished and that is considered to be a sufficient safeguard for private money. Secondly, if a Departmenal head is found gnilty of gross neglect of his duties,

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he could be punished criminally. True I am aware that in certain cases, even if the criminal is punished, the money may disappear, it may not be recovered. Such things however, are inevitable, and it is not the peculiar experience of Cochin Government. Nor is the Excise Department the only instance of it. We find defalcations take place even in such well regulated banks as the Imperial Bank of India. A defalcation of a huge amount was committed there and it was detected only long after. You might pass ever so many regulations, but human intellect is ingenious enough to circumvent these laws. Later on you may make still more laws and yet there will be defalcations. To try to prevent defalcation completely by means of elaborate regulations, would be a vain attempt. We know that defalcations have occurred in many places. I understand even in Treasuries, where things have to be so scrupulously regulated —in treasuries which are expected to be models to other institutions—there have been defalcations. In view of these circumstances, I think it would be undesirable on the part of this Government to accept a position which would be so very hard upon our Departmental Heads.

മിസ്റ്റർ കെ. അയ്യപ്പൻ.—ഡിപ്പാർട്ട്മെൻറൽ ഹെഡ്ഡിൻെറ തലയിൽ തന്നെ ഉത്തരവാദിത്വം മുഴുവൻ വയ്ക്കുന്നതിൽ ദോഷമുണ്ട്. സാധാരണ എടുക്കാവുന്നിടത്തോളമുള്ള ശ്രദ്ധ എടുത്തുകഴിഞ്ഞിട്ടും പിന്നെയും കളവു നടക്കുകയാണെന്നു വിചാരിയ്ക്കുക; അപ്പോൾ അതിനുത്തരം പറയേണ്ട ചുമതല ആ ഡിപ്പാർട്ട്മെൻറൽ ഹെഡ്ഡിനു കൊടുക്കുന്നതോ, സ്റ്റോറു തന്നെ സഹിയ്ക്കുന്നതോ ഇതിലേതാണു നല്ലതു"? ഇതു് അസാധാരണ ചില സന്ദർഭങ്ങളിൽ മാത്രമേ വരികയുള്ളൂ. ഇപ്പോഴത്തെ നിയമങ്ങളനുസരിച്ചു് ക്രിമിനൽ ശിക്ഷ വച്ചിട്ടുള്ളതു കൊണ്ടു് കുറേ അധികം നടക്കുവാനിടയില്ല. ഡിപ്പാർട്ട്മെൻറൽ ഹെഡ്ഡിൻെറ ശ്രദ്ധ മുഴുവൻ എടുത്താലും അസാധാരണമായി വല്ല ഡിഫാൾക്കേഷൻസും വരുകയാണെങ്കിൽ അതു് സ്റ്റോറു തന്നെ സഹിയ്ക്കുകയായിരിയ്ക്കും നല്ലതു്. അല്ലെങ്കിൽ ഈ സ്റ്റോറിലെ ഒരു സബ്ബോർഡിനേറ്റായിരിയ്ക്കുന്ന ഒരു മനുഷ്യൻ—വാസ്തവത്തിൽ അയാൾ തെറ്റുകാരനായിരിയ്ക്കുകയില്ല—വളരെ ദയനീയമായ നിലയിൽ അലഞ്ഞു നടക്കുന്നതു് നാം കണ്ടുകൊണ്ടു വ്യസനിയ്ക്കേണ്ടതായി വരും. അതുകൊണ്ടു് ഈ കാര്യത്തിനു വേണ്ടി ഡിപ്പാർട്ടുമെൻറു മേലദ്ധ്യക്ഷൻമാരെ പിടിച്ചുകെട്ടുന്നതിൽ സൂക്ഷിയ്ക്കേണ്ടതാണെന്നു മാത്രമേ ഇതിനെപ്പറ്റി എനിയ്ക്കു പറയുവാനുള്ളൂ.

Dr. A. R. Menon.—Sir, In a matter like this, it will be very difficult for us to make any suggestion. I perfectly agree with the view expressed by my friend here that it is the duty of

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the Government to see that the Government money is not lost. Nobody is going to question that. But when it comes to the question of suggestion of any method, it can only be done by one who is well versed in this most difficult department and it is not possible for an amateur to make any suggestion. Only people who have had anything to do with this departmental business can realise what are the troubles so far as monetary transactions are concerned and one who has had bitter experience of having been taken in, will sympathise with others who are similarly taken in. The rules were so perfect that when one went through it, one came to the conclusion that under no circumstances can there be any defalcation so long as these rules are followed, and with such a blind belief you find there one morning that defalcation after defalcation has been going on for 7 years, temporary defalcation, without your knowledge. What happens? The person who is appointed to watch the money, the person who is appointed to check the bill-book, the person who is appointed to supervise the general management, all combine together. What is the position of the Head of the Department? Now, in a case like this every case must be considered by the Government in a general way, and unless the Government is satisfied that the Head of the Department is a rogue or has shown such criminal neglect, Government should not deal with him in a very harsh manner, because innocent people with the best of intentions serve the State either in the capacity of paid servants or in an honorary capacity. And when they are being taken in by their subordinates, if you bring in such an amendment that for all such liabilities the Head of the Department shall be held liable or responsible, then there shall be an end of any honest man coming forward to take this burden. That is the position, and that can only be realised by those who have been taken in. I do not know it as I have not been taken in. When we have to deal with small amounts of Re. 1, Rs. 2, Rs. 100, Rs. 1,000, Rs. 10,000, can we go through all these every day? Although you can, I do not know what you do. All that I can say is that what I do is to see whether the Manager's signature is there and whether other responsible signatures are there and I counter-sign the paper. That is all. There is not a single man who can go through all the accounts daily. As a matter of fact, it is only but one out of a hundred bills that can be checked. What you can do is to select a bill and check and see if things are right. That is the procedure adopted. And I have no doubt, whatever assurance you may make to me, you are not doing more than what I am doing. Therefore, it is harsh, it is unkind, it is ungenerous, it is bad policy simply to

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keep this responsibility upon persons who have been respectable for a long time and who as the result of the roguery of their subordinates sometimes get themselves involved. It is not proper, therefore, in a matter like this. If you can devise any method by which your money can be made safer, by all means do so. Let it not be a theoretical proposition at all. This is imposing an additional, unheard of burden upon the Heads of Departments or upon anybody who has to deal with public money.

Mr. P. V. Subramania Ayyar.—I am glad to find that both sides of the question in regard to this cut motion have been talked out. The point for consideration here is whether it is possible to make a rule whereby a Head of a Department can be made liable for advances received by him. There are various sorts of these advances. In the first place, there are advances made in cash by way of loans, for instance, agricultural loans, industrial loans, and advances drawn from the Treasury for purchase of stock and supplies. Both Heads of Departments and their subordinates are made what are called drawing officers in respect of these amounts. In certain cases, Heads of Departments themselves draw the amount and disbursements are made directly by them. In other cases, drawings are made by subordinate officers and disbursements are made by them as in the case of agricultural loans which the Tahsildars are competent to disburse or in the case of cost of survey stones which the Superintendent of Survey and Land Records is competent to draw and pay. There are thus both Heads of Departments and their subordinate officers actually drawing the amounts and disbursing them for making cash-advances and for purchase of stock. We have made a general provision already in respect of these advances and the Account Code to which reference was made by the mover himself specifically says that in the case of agricultural loans the Diwan Peishkar will be responsible for maintaining correct accounts of advances and stock and watching their recovery. It is also laid down that the Diwan Peishkar shall examine the accounts carefully and settle differences, if any, in communication with the Comptroller of Accounts. This is in respect of agricultural loans. There is also another rule whereby the above said rule is to regulate the grant of all kinds of advances. The above is the general rule whereby the Head of the Department is made eventually liable or responsible for whatever amounts are drawn by them or by their subordinates by debit to the advances.

Mr. M. A. Chakko.—On a point of information, may I know whether the latter rule was introduced recently.

Mr. P. V. Subramania Ayyar.—Recently. I find it introduced in 1102. No doubt, as hinted by the Hon'ble

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Mr. Pettah, there are cases in which a Head of Department cannot be made actually liable or responsible for all sorts of advances or all items of advances. For instance, in the case of Salt, the Excise Commissioner would have checked the stock of salt at the salt godown on a specified day. On the next day, the stock is washed away or is stolen away. How can he be made responsible when the stock was stolen away when it has been under lock and key under a Deputy Superintendent of Customs and a host of others. It is thus impossible to say definitely or to rule definitely under what all circumstances a Head of Department can be made liable for an item of advance or whether any other subordinate ought to be made responsible for such advances. There is a general rule applicable to all sorts of expenditure already existing in the Code. It is this. "All Heads of Offices are allowed the privilege of drawing money as well as allowances, salary and contingent expenses and the drawer of the bill will be held answerable for over-charge". When they are subordinate heads of offices, the responsibility of the counter-signing officer, that is, the Head of the Department, will be that of a controlling officer and it brings him under liability to make good any loss arising from their culpable negligence. The same article therefore goes on to say that "In short the responsibility for an over-charge will rest primarily with the drawer of the bill and failing recovery from him, the counter-signing officer will also be held responsible in the event of culpable negligence on his part". It would be unworkable or impracticable to say that the Head of the Department should be held liable for any item of advances which stands against his name. It would also be unkind to rule so. With a view therefore to allocate liability on the officer really responsible, we have, in addition to the rules read in here, issued definite circulars as to how the Head of the Department should be able to scrutinise the recovery of amounts standing against him under advances. In the case of advances made in cash, there will be securities within his possession. There will also be terms of agreement under which loans have been granted. The recoveries whether they are made by subordinate officers or by himself are to be recorded from time to time in the registers, so that there will be an opportunity for him to ascertain every now and then whether the recoveries are being promptly made, whether outstandings exist and whether there have been any reason to know that a certain amount of recovery was not made within the fixed time. So long as recoveries were being effected and the scrutiny was being made by the Head of the Department, there is reason to believe that there can be no room for any anxiety. Failing scrutiny on his part and failing also any

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reasonable excuse for the omission on his part, no proposal whereby recovery had to be waived or abandoned owing to circumstances beyond his control will be accepted and he alone can be made responsible. If, however there were reasons to show that the recovery has been made impossible or the stock has gone out of existence owing to unavoidable circumstances, there can be no reason to hold that the Head of the Department should be responsible. There is also no insistence in the rule read by me that he would be held liable or responsible, the rule being subject to the common law that all duties and responsibilities are subject to certain conditions or consequences under which the duty may not be possible of performance on all fours or to the very letter. It was based on this law that Article 103 C.A.C. exists under which the primary responsibility will lie with the drawer of the bill and the eventual responsibility on the Head of the Department where there is culpable negligence on his part. We have issued definite rules under which the Head of the office or the Head of the Department is required to exercise sufficient scrutiny in regard to issues of stock and the recovery of the value thereon or in the case of cash advances the recovery of such advances.

Again in regard to these advances, what is called the plus and minus memo is kept by the Comptroller of Accounts. These accounts are prepared independently of the accounts kept by Heads of Departments and the two sets are recancelled by the Comptroller of Accounts and the result communicated to the departmental head. By this arrangement, the Head of Department is given every opportunity to verify the stock, verify the securities and verify the outstandings.

In respect of subordinate officers, detailed departmental rules have been issued whereby the subordinate officers are to render accounts to the Heads of Departments concerned, in regard to stocks received by him, stocks issued by him, recoveries made by him, so that at the end of every month the Head of the Department is able to find that the recoveries outstanding have been properly accounted for. The existing rules, I consider, are thus sufficient to safeguard Government interests in regard to advances made. If any Hon'ble Member wants to know definitely, what exactly the nature of the check exercised by the Government is I am ready to refer him to it. What exactly the spirit of articles 100 and 103 C. A. C. read by me is that Heads of Departments will be responsible for maintaining correct accounts and watching recovery of loans, and provided all safeguards were taken by them, the departmental heads can be exonerated from any liability. For these reasons

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I consider that the motion brought forward for amending our present Account Code is not desirable or necessary.

Mr E. Ikkanda Warriar.—Sir, even when I tabled this motion, I knew that it was beset with some difficulties. My idea is to limit the operation of the proposed rule to advances paid for the purchase of stock and it was far from my mind that the liability should not be subject to the common law of the land. Suppose as the Finance Member pointed out as an instance, the stock of salt is washed away by flood. Who can help it? I never wanted the Government to make the Head of Department liable in such a case. In the same way, in cases where there are circumstances over which the officer has no control, I never wanted him to be held liable. What I really wanted was that Government money should be safely protected. I never meant more than what has been expressed by the Hon'ble Member for Pazhayannur. Since I am now told that there are many rules already in force and the Government will, if necessary, frame further rules to prevent any further defalcations I beg for the leave of the House to withdraw the motion.

The motion was, with leave, withdrawn.

The demand was put, and carried.

2. 16—Law and Justice—Rs. 1,67,998.

Mr. K. P. Kannan Nayar.—Sir, I rise to move that this House will be pleased to grant Rs. 1,67,998 under the Head-16-Law and Justice. I don't think there is anything out of the ordinary, so far as this demand is concerned. The Hon'ble Members will see from the memorandum explaining the budget that every attempt has been made so far as this department is concerned in effecting retrenchment. What is now sought to be granted is only what is absolutely necessary for the carrying on of that department for next year. Temporary courts are all sought to be abolished. The Additional Munsiff's Court at Trichur is sought to be suspended and there has been considerable reduction in the provision for travelling allowance and daily allowance and other matters. This amount that is prayed for is absolutely necessary. The House will be pleased to grant this amount.

Motion No 1.

Mr. E. Ikkanda Warriar.—Sir, I beg to move *to reduce the allotment of Rs. 3,520 for the establishment of A-Law Department by Re. 1.* My object, Sir, is to request the Government to bring an up-to-date edition of all the Unrepealed Regulations and the Rules framed thereunder. There had been a similar request on this question before this House, I think during the last year. The Government then conceded the necessity of compiling the Unrepealed Regulations and the Rules

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